

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2806 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

- =====
1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
SONAL P CHANDERVAKER

Versus

STATE OF GUJARAT  
-----

Appearance:

Mr.A.S. Joshi for MR MJ THAKORE for Petitioner  
Mr.K.P. Raval, ASSTT GOVERNMENT PLEADER for  
Respondents nos.1 & 2.  
-----

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 10/11/2000

ORAL JUDGEMENT

The present petition is filed by the petitioner seeking a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order and to direct the respondents to pay to the petitioner vacation salary and to pay all the arrears of vacation salary to the petitioner.

2. The facts giving rise to the present petition are that the petitioner was appointed as Full Time Lecturer in English in M.N. College, Visnagar for the first term of academic year 1984- 85. It is the case of the petitioner that her appointment was approved by the Director of Higher Education vide Office Order dated 22.10.1984. Thereafter, the petitioner came to be relieved at the end of the first term and again appointed as Full Time Lecturer in English by way of local appointment in the same college for the second term which was approved by the Director of Higher Education vide Office Order dated 22.11.1984. As the facts are narrated in para 2.1 of the petition, this was repeated even for the academic year 1985- 86 and for 1986- 87. In the year 1987, the petitioner was given permanent appointment by Dhansura Peoples Cooperative Bank Limited, Mahila Arts and Commerce College, Dhansura. She, therefore, resigned from the post of lecturer held by her as a local appointee with M.N. College, Visnagar and started working as full time lecturer with the said college at Dhansura. Having worked for some time there she resigned from the said post and joined as a Full Time Lecturer in English with C.B. Patel Arts College, Nadiad as a permanent lecturer.

3. The controversy raised in the petition is now in a very narrow compass. The respondents have filed an affidavit sworn by one Shri S.B. Dhobi, Joint Director, Office of the Commissioner of Higher Education, Gandhinagar, on 15.9.2000, wherein it is stated that the petitioner is entitled for vacation salary as admissible under the provisions of the Resolution dated 13.11.1967 issued by the Govt. of Gujarat, Education and Labour Department. It is stated in para 4.3 as under :

"I further say that the petitioner was again given appointment on the same terms and conditions on 7.11.1984 and the same was approved vide an order dated 22.11.1984 for the second term of the academic year 1984- 85 however, the petitioner had served for period from 12.11.84 to 6.4.85 and has served for the major part of the second term and in view of the condition no.7 of appointment order dated 22.11.84 read with Cl (1) of the Resolution dated 13.11.1967, the petitioner is entitled for the vacation salary for the second term of the academic year 198485."

So far as the vacation salary regarding academic year 1985- 86, it is stated in para 4.5 as under :

"So far as the second term of the academic year 1985- 86 is concerned the petitioner is entitled for the vacation salary as the petitioner was appointed vide an order dated 25.11.85 and the petitioner had worked from 2.1.86 to 7.5.86, i.e. the petitioner had served for major part and is entitled as per the resolution dated 13.11.1967 for the vacation salary."

4. In view of the averments made in the aforesaid paragraphs, it redresses the grievance of the petitioner and the present petition is required to be allowed to that extent.

5. The respondents are directed to pay the petitioner the vacation salary for the vacation during the academic year 1984- 85 and 1985- 86 as mentioned in para 4.3 and para 4.5 of the affidavit in reply. Said amount shall be paid to the petitioner within a period of six weeks from the date of receipt of writ of this court.

6. The petition stands allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

10th November 2000 (Ravi R. Tripathi, J.)

karim\*